

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CHALMERS A. SIMPSON, JR.,	:	CIVIL NO: 1:21-CV-00894
	:	
Plaintiff,	:	
	:	
v.	:	
	:	(Magistrate Judge Schwab)
DAUPHIN COUNTY SHERIFF(S)	:	
DEPT., <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	

ORDER

June 21, 2022

On June 17, 2022, Simpson filed a motion for a 60-day continuance, asserting that he has served subpoenas to which he has not received responses and requesting 60 days to hold a deposition. *Doc. 41* at 1–2. He also references a June 18, 2022 deadline. *Id.* at 1. June 18, 2022, is the deadline for Simpson to respond to the defendants’ two pending motions to dismiss his amended complaint. It appears that Simpson is requesting an extension of time to respond to the motions to dismiss until after he has conducted some discovery.

As we have previously explained to Simpson, “at this early stage of the case, we have yet to determine whether Simpson states a claim upon which relief can be granted, and when making that determination, we look only at the allegations in the pleadings, not at whether there is evidence to support the allegations in the pleadings.” *Doc. 6* at 2 n.2. “Discovery should *follow* the filing of a well-pleaded

complaint.” *Telford Borough Auth. v. United State Env't Prot. Agency*, No. 12-CV-6548, 2021 WL 5495765, at *7 (E.D. Pa. Nov. 23, 2021) (quoting *Kaylor v. Fields*, 661 F.2d 1177, 1184 (8th Cir. 1981) (emphasis added)). “Facial challenges to the legal sufficiency of a claim or defense, such as a motion to dismiss based on failure to state a claim for relief, should, however, be resolved *before* discovery begins.” *Id.* (quoting *Chudasama v. Mazda Motor Corp.*, 123 F.3d 1353, 1367 (11th Cir. 1997) (emphasis added)). In other words, a well pleaded complaint that states a claim upon which relief can be granted is the admission price for discovery.

We will deny Simpson’s request for a 60-day continuance to conduct discovery. If Simpson’s amended complaint survives the pending motions to dismiss, then Simpson may seek to discover evidence to support his allegations. Although we will deny Simpson’s request for a 60-day continuance to conduct discovery, we will *sua sponte* grant him one further brief extension of time to file briefs in opposition to the pending motions to dismiss his amended complaint.

Based on the foregoing, **IT IS ORDERED** that Simpson’s motion (*doc. 41*) for a 60-day continuance is **DENIED**. **IT IS FURTHER ORDERED** that, on or

before **July 5, 2022**, Simpson shall a brief in opposition to each of the pending motions to dismiss his amended complaint.

S/Susan E. Schwab

Susan E. Schwab

United States Magistrate Judge